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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,313	03/10/2000	Tony Gerard Rose	1263.0805	5129
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FITZPATRICK CELLA HARPER & SCINTO				
30 ROCKEFELLER PLAZA				
NEW YORK, NY 10112				
			EXAMINER	
			FILIPCZYK, MARCIN R	
			ART UNIT	PAPER NUMBER
			2171	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/523,313	ROSE, TONY GERARD	
	Examiner	Art Unit	
	Marc R Filipczyk	2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004 and 18 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) 1-48 and 63-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-62 and 68-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/5/04 and 5/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to Applicant's RCE request filed April 5, 2004, and amendments received on 4/23/2004 and 5/18/2004. The IDS of 4/5/2004 and 5/11/2004 have been considered. The content of the telephone interview conducted on May 12, 2004 is confirmed. Claims 1-88 are pending, however, as a result of a Restriction, claims 1-48 and 63-67 were withdrawn on 3/24/2003. Hence, claims 49-62 and 68-88 are rejected.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 5, 2004 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 49-62 and 68-88 are rejected under 35 U.S.C. 102(e) as being anticipated by Czerwinski et al (U.S. Patent No. 6,243,093).

Regarding claims 49, 51, 52, 54, 84 and 86, Czerwinski discloses a data display apparatus/method for displaying the relationships between sets of data (content of each object), the apparatus comprising: (title)

data receiving means for receiving sets of data resulting from a query and similarity values for the similarity between the sets of data; (fig. 2, item 264 and col. 18, lines 8-16)

display control means for controlling said display means to display representations for said sets of data separated in accordance with said similarity values (abstract, lines 6-10, col. 19, lines 49-51, col. 21, lines 3-5 and fig. 12 E) and to display links between the representations in accordance with the similarity values (fig. 12 E items 1254 (links) and col. 19, lines 49-51, col. 21, lines 3-5, also see fig. 22).

(Note: links displayed in different colors according to similarity of objects and threshold)

Regarding claims 50 and 53, Czerwinski discloses display means to display said representations as images of said sets of data (col. 6, lines 26-32 and 38-42).

Regarding claims 55, 58, 60-62, 85 Czerwinski discloses a data display apparatus/method for displaying the relationships between sets of data (content of each object), the apparatus comprising: (title)

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data receiving means for receiving sets of data and similarity values for the similarity between the sets of data; (col. 1, lines 11-15 and col. 18, lines 8-16)

arrangement calculation means for calculating an arrangement of representations for said sets of data on display means in which arrangement the representations are spaced according to said similarity values; (abstract, lines 6-10)

display control means for controlling said display means to display the arrangement of the representations; (abstract, lines 6-10, and fig. 22) and

user selection means allowing a user to select and move one of the representations (fig. 19B, blocks 1928, 1930, 1932 and 1938, and fig. 22).

Regarding claims 56, 57, 59 and 60, Czerwinski discloses identifying dragged objects (fig. 19B, block 1928) in relation to other objects (fig. 19B, block 1930) and, calculating and updating the location of the object in relation to other objects (fig. 19B, block 1932) using starting and target separations (col. 22, lines 5-14).

(Note: dragging an object requires control of display)

Regarding all the instances of claims 68-73 and 75-83, Czerwinski discloses receiving an input query and determining similarity values (fig. 2, item 264, and col. 18, lines 8-16).

Regarding all the instances of claim 74, Czerwinski discloses displaying thumbnail images of the sets of data as the representations (col. 6, lines 40-42).

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Regarding all the instances of claims 87 and 88, Czerwinski discloses a storage medium with a cpu to carry out instruction and a signal carrying instructions (fig. 1B, 102, 104, 106 and 108).

Claims 49, 51, 52, 54, 84 and 86 are rejected under 35 U.S.C. 102(e) as being anticipated by Ikeda (U.S. Patent No. 6,564,206).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 49, 51, 52, 54, 84 and 86, Ikeda discloses a data display apparatus/method for displaying the relationships between sets of data (content of each object), the apparatus comprising: (abstract, lines 1-10)

data receiving means for receiving sets of data resulting from a query and similarity values for the similarity between the sets of data; (fig. 6, item 701)

display control means for controlling said display means to display representations for said sets of data separated in accordance with said similarity values (fig. 6, ID:(567, 765,851)

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and col. 7, line 8) and to display links between the representations in accordance with the similarity values (fig. 6, item 709).

Response to Arguments

Applicant's arguments filed 4/23/2004 and 5/18/2004 have been fully considered but they are not persuasive. The arguments and responses are listed above.

Applicant argues in the 4/23/2004 and 5/18/2004 responses that Czerwinski **does not**:

1. physically separate sets of data in accordance with similarity values, and
2. display links between the representations in accordance with similarity values.

In response to Applicant's arguments and careful reconsideration of Czerwinski system, Examiner disagrees. Regarding argument (1), Czerwinski discloses physically separating the sets of data in accordance with similarity values by coloring or darkening sets of data based on their similarities, see specifically col. 19, lines 49-51 and col. 21, lines 3-5 and fig. 12 E.

Regarding argument (2), Examiner also disagrees. Czerwinski clearly discloses links between representations, see fig. 12E, items 1254 (links). Note, Czerwinski's links connect elements of unique data structures based on data similarities.

With respect to all the pending claims 49-62 and 68-88, no other issues are raised thus all the pending claims remain rejected.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of art with respect to display systems based on similarity and proximity:

U.S. Patent No. 6,211,876 of Ackermann et al.

U.S. Patent No. 6,405,195 of Ahlberg.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc R Filipczyk whose telephone number is 703-305-7156. The examiner can normally be reached on Mon-Fri, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MF
October 22, 2003



SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100